REMARKS / ARGUMENTS

The present application includes pending claims 1-5, 7-16, 18-27, and 29-34, all of which have been rejected. The Applicant respectfully submits that the claims define patentable subject matter.

Claims 1-5, 7-16, 18-27, and 29-34 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over USPP № 2002/0124258 ("Fritsch") in view of USPP № 2004/0024886 ("Saxena"). The Applicant respectfully traverses these rejections at least based on the following remarks.

REJECTION UNDER 35 U.S.C. § 103

In order for a *prima facie* case of obviousness to be established, the Manual of Patent Examining Procedure, Rev. 6, Sep. 2007 ("MPEP") states the following:

> The key to supporting any rejection under 35 U.S.C. 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious. The Supreme Court in KSR International Co. v. Teleflex Inc., 82 USPQ2d 1385, 1396 (2007) noted that the analysis supporting a rejection under 35 U.S.C. 103 should be made explicit. The Federal Circuit has stated that "rejections on obviousness cannot be sustained with mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness."

See the MPEP at § 2142, citing *In re Kahn*, 441 F.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006), and *KSR International Co. v. Teleflex Inc.*, 82 USPQ2d at 1396 (quoting Federal Circuit statement with approval). Further, MPEP § 2143.01

states that "the mere fact that references can be combined or modified does not render the resultant combination obvious unless the results would have been predictable to one of ordinary skill in the art" (citing *KSR International Co. v. Teleflex Inc.*, 82 USPQ2d 1385, 1396 (2007)). Additionally, if a *prima facie* case of obviousness is not established, the Applicant is under no obligation to submit evidence of nonobviousness:

> The examiner bears the initial burden of factually supporting any *prima facie* conclusion of obviousness. If the examiner does not produce a *prima facie* case, the applicant is under no obligation to submit evidence of nonobviousness.

See MPEP at § 2142.

I. The Proposed Combination of Fritsch and Saxena Does Not Render Claims 1-5, 7-16, 18-27, and 29-34 Unpatentable

The Applicant now turns to the rejection of claims 1-5, 7-16, 18-27, and 29-34 as being unpatentable over Fritsch in view of Saxena. The Applicant notes that the proposed combination of Fritsch and Saxena forms the basis for all of the pending rejections.

A. Independent Claims 1, 12, and 23

With regard to the rejection of independent claim 1 under 103(a), the Applicant submits that the combination of Fritsch and Saxena does not disclose or suggest at least the limitation of "automatically transferring one or more of media,

data and/or service … wherein said automatic transfer is controlled by utilizing at least a first rule," as recited by the Applicant in independent claim 1.

The Final Office Action states the following:

> Regarding claims 1, Fritsch disclosed a method and system comprising automatically transferring one or more of media, data and/or service to a view of one or both of a first media processing system and/or a first personal computer within the distributed media network, wherein said automatic transfer is controlled by utilizing at least a first rule ("media delivery center receives media-rich broadcasts", see paragraph [0028], [0031], [0033])

See the Final Office Action at page 6. The Examiner is relying for support on paragraphs 0028, 0031, and 0033 of Fritsch. Paragraph 0028 of Fritsch discloses that a media delivery system (operated by a service provider) centrally manages and stores media content, as well as securely delivers the media content to output devices.

Paragraph 0031 of Fritsch discloses a media delivery system 200 (FIG. 2 of Fritsch), which uses a media delivery center 202. The media delivery center 202 receives local TV broadcasts, satellite broadcasts and commercial information that may be in video, audio or graphic forms. The received content can then be broadcast to various clients.

Paragraph 0033 of Fritsch discloses a media delivery center 300 (FIG. 3A of Fritsch), which receives media program content 302 from a source or content

provider or from a media storage device. In reference to ¶ 0033 of Fritsch, the Applicant points out that Fritsch does not disclose or suggest that the transfer of the content 302 is controlled in any way by a rule. In fact, paragraph 0033 of Fritsch, as well as the remaining portions of Fritsch, does not disclose or suggest any details as to how the media content 302 is transferred to the media center 300.

The Examiner has equated Applicant's "said first media processing system and/or said first personal computer" to Fritsch's media delivery center (200 or 300), and Applicant's "automatically transferring ... of media, data and/or service" to Fritsch's receiving of local TV and satellite broadcasts by the media delivery center. *See* the Final Office Action at page 3. The Applicant respectfully maintains that Fritsch, including ¶¶ 0028, 0031, and 0033, does not disclose that the receiving of local TV and satellite broadcasts by the media delivery center is controlled in any way by a rule. In the "Response to Arguments" section of the April 15, 2008 Office Action, the Examiner has broadly interpreted the "rule" limitation and stated the following:

> Examiner submits that any number of provisions associated with the transfer of data between the media deliver center and content source of Fritsch reads on the broad concept of controlling such transfer using a "first rule". For example, the protocol used to transfer data ("media delivery center 202 can receive local TV broadcasts 204 and satellite broadcasts", paragraph [0031]), the format of the data ("video, audio or graphic forms", paragraph [0031]), subscription rules ("end users subscribe to the media delivery system for various programs", paragraph [0031]), or

> security rules ("media program content 302 is encrypted", paragraph [0033]) can all be considered "rules" as they are clearly aspects that control the transfer of media content to the media delivery center.

See the April 15, 2008 Office Action at pages 4-5. The Applicant respectfully disagrees that any of the above examples read on "rules" that control the transfer of data between the media delivery center and the content source of Fritsch. For example, **the subscription rules and the security rules of Fritsch are <u>not</u> related in any way to the transfer of data between the media delivery center and the content source of Fritsch; they are only related to the communication of data from the media delivery center to the clients. Furthermore, the format or type of the received data is not a rule that controls the transfer of such data from the content source to the media delivery center.** Saxena does not overcome the above deficiencies of Fritsch.

Therefore, the Applicant maintains that that the combination of Fritsch and Saxena does not disclose or suggest at least the limitation of "automatically transferring one or more of media, data and/or service ... wherein said automatic transfer is controlled by utilizing at least a first rule," as recited by the Applicant in independent claim 1.

Furthermore with regard to the rejection of independent claim 1 under 103(a), the Applicant submits that the combination of Fritsch and Saxena does not disclose or suggest at least the limitation of "wherein said automatic transfer is

controlled by utilizing at least a first rule hosted by said one or both of said first media processing system and/or said first personal computer," as recited by the Applicant in independent claim 1.

The Final Office Action concedes that Fritsch does not disclose this limitation and then relies on Saxena, stating the following:

> Fritsch disclosed substantially the invention as claimed for the given reasons above however explicitly does not disclose wherein said automatic transfer is controlled by utilizing at least a first rule hosted by said one or both of said first media processing system and/or said first personal computer. However in the same field of invention Saxena discloses wherein said automatic transfer is controlled by utilizing at least a first rule hosted by said one or both of said first media processing system and/or said first personal computer (see abstract, par. [0006, 0033, figure 1 and the details related to figure in specifications; controlling content exchange mechanism etc.]).

See the Final Office Action at page 3. The Final Office Action relies for support on the abstract and paragraphs 0006, 0033 of Saxena. Initially, the Applicant points out that Saxena is not related to, and does not disclose, any automatic transfer of media content or controlling such automatic transfer using a rule. Instead, Saxena relates to an access controlled content exchange system, where a requesting client accesses content at a target client only when access to the target client is authorized based on a profile. *See* Saxena at paragraph 0006. More specifically, referring to FIGS. 4 and 8 of Saxena, the Applicant points out that the profile 410 is associated with the client device 108 and may include profile

entries 802. However, the various profile entries 802 disclosed by Saxena relate to access authorization and access rights with regard to remotely-located content. In this regard, Saxena does not disclose that the profile 410, or any of its profile entries 802, includes a rule that controls automatic transfer of content, where the rule is hosted by the client device 108.

Therefore, the Applicant maintains that the combination of Fritsch and Saxena does not disclose or suggest at least the limitation of "wherein said automatic transfer is controlled by utilizing at least a first rule hosted by said one or both of said first media processing system and/or said first personal computer," as recited by the Applicant in independent claim 1.

Accordingly, independent claim 1 is not unpatentable over Fritsch in view of Saxena and is allowable. Independent claims 12 and 23 are similar in many respects to the method disclosed in independent claim 1. Therefore, the Applicant submits that independent claims 12 and 23 are also allowable over the references cited in the Final Office Action at least for the reasons stated above with regard to claim 1.

B. Rejection of Dependent Claims 2-5, 7-11, 13-16, 18-22, 24-27, and 29-34

Based on at least the foregoing, the Applicant believes the rejection of independent claims 1, 12 and 23 under 35 U.S.C. § 103(a) as being unpatentable

over Fritsch in view of Saxena has been overcome and requests that the rejection be withdrawn. Additionally, claims 2-5, 7-11, 13-16, 18-22, 24-27, and 29-34 depend from independent claims 1, 12 and 23, respectively, and are, consequently, also respectfully submitted to be allowable.

The Applicant also reserves the right to argue additional reasons beyond those set forth above to support the allowability of claims 2-5, 7-11, 13-16, 18-22, 24-27, and 29-34.

CONCLUSION

Based on at least the foregoing, the Applicant believes that all claims 1-5, 7-16, 18-27, and 29-34 are in condition for allowance. If the Examiner disagrees, the Applicant respectfully requests a telephone interview, and requests that the Examiner telephone the undersigned Attorney at (312) 775-8176.

The Commissioner is hereby authorized to charge any additional fees or credit any overpayment to the deposit account of McAndrews, Held & Malloy, Ltd., Account No. 13-0017.

A Notice of Allowability is courteously solicited.

Respectfully submitted,

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/Ognyan I. Beremski/

Ognyan Beremski, Esq.
Registration No. 51,458
Attorney for Applicant

McAndrews, Held & Malloy, Ltd.
500 West Madison Street, 34th Floor
Chicago, Illinois 60661
(312) 775-8000

/ OIB